

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**  
Norfolk Division

BRENT NATHANIEL JORDAN, #322237,

Petitioner,

v.

ACTION NO. 2:05CV85

GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254.

The petition alleges violation of federal rights pertaining to petitioner's convictions for receiving stolen property, eluding a police officer, reckless driving, and possession of a firearm as a convicted felon on March 17, 2003, in the Circuit Court of the City of Norfolk, as a result of which he was sentenced to serve a total of ten years (with eight years and fourteen months suspended) in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on August 18, 2005, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On September 9, 2005, the Court received petitioner's Objection to Magistrate Judge's Report and Recommendation.

The Court, having reviewed the record and examined the objections filed by the petitioner

to the United States Magistrate Judge's Report, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed August 18, 2005. It is, therefore, ORDERED that the petition be DENIED and DISMISSED, because petitioner's claim was previously adjudicated by the Virginia Supreme Court on the merits and none of the statutory exceptions apply that would allow this Court to review the claim on the merits.

It is further ORDERED that judgment be entered in favor of the respondent.

Petitioner Jordan has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to all counsel of record.

/s/

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WALTER D. KELLEY, JR.  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
September 28, 2005